



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

APR 21 1992

Steve Brittle
Researcher
Don't Waste Arizona! Campaign
P.O. Box 60521
Phoenix, AZ 85082

Re: Notice of Intent to Bring Suit Pursuant to Section
7002 of the Resource Conservation and Recovery Act,
42 U.S.C. §6972 ("RCRA")

Dear Mr. Brittle:

EPA has received your letter of January 27, 1992 notifying EPA that the Don't Waste Arizona! Campaign intends to bring a citizen's suit pursuant to Section 7002(a)(1)(A) of RCRA against the Salt River Pima-Maricopa Indian Community for operating an open dump and against the cities of Scottsdale, Tempe, and Mesa, Arizona failing to dispose of their solid waste in a sanitary landfill. More specifically, your letter stated that the notification was prompted by "large amounts of garbage, trash, and other solid wastes washing down the Salt River" from the Tri-City Landfill, which is operated by the Salt River Pima-Maricopa Indian Community (the "Landfill"). I hope that the following response is helpful to you and the Don't Waste Arizona! Campaign.

Congress enacted Subtitle D of RCRA, Sections 4001 to 4010 of RCRA, to establish a framework for Federal, State, Tribal and local government cooperation in regulating the management of nonhazardous solid waste. The Federal role envisioned by Congress under Subtitle D of RCRA is to create an overall regulatory direction by establishing minimum nationwide standards for protecting human health and the environment and to provide assistance to States, Tribes, and local governments for developing their own programs. However, the actual planning, implementation, and enforcement of solid waste programs under Subtitle D of RCRA remain State, Tribal, and local functions. Thus, EPA lacks authority to bring either civil or criminal actions under the section of Subtitle D of RCRA (§4005) that you cited. In fact, section 4005(a) of RCRA specifically states that the prohibition against open dumping is enforceable by citizens under section 7002 of RCRA, the very section under which the Don't Waste Arizona Campaign would bring suit for the alleged release of "garbage, trash and other solid wastes" into the Salt River.

EPA is aware of the potential problems associated with the Landfill. EPA is currently working with the Corps of Engineers, the State of Arizona, and the Salt River Pima-Maricopa Indian Community, the cities of Scottsdale, Mesa, and Tempe, and other interested local government bodies to ensure that the appropriate action is taken to avoid any harm to human health or the environment.

If you have any questions, or need any additional information, please contact Roccena Lawatch, Native American Programs Coordinator, at (415) 744-1602.

Sincerely,



Jeffrey Zelikson,
Director Hazardous Waste
Management Division